

TOWN OF DAVIE TOWN COUNCIL AGENDA REPORT

TO: Mayor and Councilmembers

FROM/PHONE: Marcie Nolan, AICP, Acting Development Services Director

PREPARED BY: William O. Hitchcock, CBO, Building Official

SUBJECT: Ordinance - Updating Chapter 5 of the Code Of Ordinance

AFFECTED DISTRICT: All

ITEM REQUEST: **Schedule for Council Meeting**

TITLE OF AGENDA ITEM: CODE AMENDMENT - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE CODE OF ORDINANCES, CHAPTER 5, ENTITLED BUILDING AND BUILDING REGULATIONS; PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

REPORT IN BRIEF: The Building Division has updated the current Chapter 5 of the Town of Davie Code of Ordinances to reflect the adopted 2004 Edition of the Florida Building Code, providing for further amendments as may be adopted by the state. The only major change is that homeowner association letters are not longer be provided at time of permit application, if applicable. The changes to the Florida Building Code have removed this as a requirement. Also, the amendment provides for automatic incorporation of changes to the Code by the State as they occur.

PREVIOUS ACTIONS: Ordinance 85-35 as adopted April 17, 1985.

CONCURRENCES: None

FISCAL IMPACT: not applicable

Has request been budgeted? n/a

RECOMMENDATION(S): Staff recommends approval of the update to Chapter 5 of the Code of Ordinances.

Attachment(s): Ordinance, Exhibit A: Chapter 5

ORDINANCE. _____

AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE CODE OF ORDINANCES, CHAPTER 5, ENTITLED BUILDING AND BUILDING REGULATIONS; PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the Building Division desires to amend Chapter 5 and adopt the 2004 edition of the Florida Building Code, as may be amended and

WHEREAS, the existing language in the Code of Ordinance is no longer effective as the Florida Building Code has been amended; and

WHEREAS, the Town Council, having legally advertised its intent to update Chapter 5 of the Town of Davie Code of Ordinances.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA, AS FOLLOWS:

SECTION 1. The above WHEREAS clauses are true and correct and made a part hereof as if fully set forth herein.

SECTION 2. That the amended Chapter 5 of the Code of Ordinances, a copy which is attached hereto as Exhibit "A", is hereby accepted by the Town of Davie.

SECTION 3. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portion of this Ordinance.

SECTION 4. This ordinance shall take effect immediately upon its passage and adoption.

PASSED ON FIRST READING THIS ____ DAY OF _____, 2008

PASSED ON SECOND READING THIS ____ DAY OF _____, 2008

MAYOR/COUNCILMEMBER

ATTEST:

TOWN CLERK

APPROVED THIS _____ DAY OF _____, 2008

ARTICLE I. IN GENERAL

Sec. 5-1. Adoption of Florida Building Code.

~~The South Florida Building Code, 1984 Addition,~~ The State of Florida adopted the Florida Building Code 2004 Edition, as amended and adopted by the Broward County Florida Board of County Commissioners and any and all additional revisions made subsequent to that date, is hereby adopted as if set forth herein, and the whole of the code and amendments or revisions is hereby declared to be part of this Code of Ordinances. (Code 1964, Sec. 4-1)

Cross references-Compliance with building code required for issuance of development permit, Sec. 15-171; application for building permit, site plan approval, and plat approval shall comply with chapter 18, article III, Sec. 18-191.

Sec 5-2. Fees.

Permit fees for general maintenance or repairs or other activities for which an application for a permit from the building department is required shall be as set by the council by means of resolution enacted by majority of the council at a public hearing with proper legal advertising.
(Code 1964 Sec. 10A-01)

Sec. 5-3. Certain county ordinances amending Florida Building Code not accepted by Town.

Broward County Ordinance No. 76-10 which ordinance was adopted as an emergency ordinance by the Broward County Commission on March 2, 1976, shall not be applicable to or within the Town of Davie.
(Code 1064, Sec. 4-1.1)

Sec. 5-4. Building permit in certain areas; sanity certificate from county required.

No building permit for new construction within certain areas of the town designated by the Broward County Health Department shall be issued unless the applicant for the new construction within the defined area shall have presented to the town ~~clerk~~ a certificate from the Broward County Health Department certifying or attesting that the applicant's proposed new construction has met the requirements of water supply and sewage disposal of the Broward County Health Department.
(Code 1964, Sec. 4-2).

Sec. 5-5. Reserved.

Editor's Note-Section 5.5, establishing the base lines of the town, and derived from Sec. 4-21 of the town's 1964 Code, was deleted in its entirety by Sec. 1 of Ord. No. 85-35, adopted April 17, 1985.

Sec. 5-6. Construction of nonmobile structures used for wholesale or retail sales.

(a) Every business conducted within the town for the wholesale or retail sale of merchandise, excluding farms and agricultural uses, and products manufactured therefrom, shall be conducted within or from a structure constructed in compliance with the Florida Building Code. Every such business, including farms and agricultural uses, shall have an adequate water supply and sewage disposal facilities.

(b) No occupational license shall be issued for a business found to be in violation of the preceding subsection until compliance has been effectuated.

(Code 1964, Sec 402.3; Ord. No 200-29, Sec 2, 7-19-00)

Sec. 5-7. Smoke Detectors.

(a) Any residential structure which is the subject of new construction and occupancy or any existing structure which is substantially altered in such a fashion as to require the issuance of a building permit for the alterations shall have installed therein smoke detectors.

(b) The Fire Chief shall publish a list of smoke detectors by an approved laboratory for installation as required pursuant to this section. The Electrical Plan Reviewer shall determine the number of smoke detectors required for the structure and shall approve the location of the smoke detector or smoke detectors in the structure. All installations shall comply with the current edition of NFPA 72-2002 of the National Fire Codes and must be smoke detectors approved by approved laboratories.

(c) This section shall apply to all residential structures within the town. For the purpose of this section, the following definitions shall apply:

(1) *Substantial alterations*: Any substantial change or modification of construction to the living area or occupancy of the building increasing by twenty (20) per cent the area of cubic contents thereof.

(2) *Smoke Detector*: A battery operated or electrically operated device which emits alarm signals by light or sound indicating the presence of smoke emanating from combustible materials.

(Code 1964, Sec 4-2.8)

~~Sec. 5.8. Homeowners and condominium association notification requirements.~~

~~Upon application being made for a building permit for construction within a condominium unit or upon property subject to recorded regulations enforceable by a homeowners association, the town shall notify the condominium or homeowners association of the request along with a copy of the permit request by mail to the subject association. The building permit shall not be issued prior to ten (10) days from the~~

mailing of the notification request for a building permit unless the association consents to the issuance of the permit in writing.
(Code 1964, Sec 4-2.9)

~~Sec. 5-9. Usage, storage and handling of flammable gasses within commercial and industrial-zoned districts regulated.~~

~~(a) Definitions:~~ Unless otherwise expressly stated, all words other than those defined herein, or their ordinarily accepted meanings in the construction industry, shall be defined pursuant to the definitions contained within the South Florida Building Code, 1986 Broward County Edition, as amended.

~~“Flammable gas(es)” shall mean any compressed gas consisting of easily ignited light hydrocarbons. Inert gases are not defined as a flammable gas.~~

~~(b) Ventilation System.~~ All buildings in commercial and industrial zoning districts in which flammable gases are used, handled or stored shall have a forced, continuous ventilation system of such minimum capacity so as to produce a complete change of air in each room or space where flammable gasses are kept or stored every ten (10) minutes.

~~(1) Ventilation systems shall operate continuously.~~

~~(2) Recirculation of air within such spaces that contain flammable gases, either treated or untreated, shall not be construed to constitute a change of air.~~

~~(c) Position of Exhaust Ventilation Intake.~~ In all buildings used for the use, storage or handling of flammable gases, the exhaust ventilation shall be taken from a point at or near the floor; provided, that no exhaust system intake shall not be higher than ten (10) inches from the finish floor.

~~(d) Alarm System:~~

~~(1) Installation of alarm system.~~ Gas detector and alarm systems shall be installed in all commercial, utility and industrial structures where flammable gases are used handled and/or stored. Said alarm system shall consist of warning lights and audible alarm. The warning lights shall be placed in such conspicuous locations within the building as determined by the Chief Mechanical Inspector. The audible alarm shall be audible to all internal areas of buildings with at least one exterior alarm that shall be audible for a least two hundred fifty (25) feet from the building. The exterior alarm shall be so marked as to indicate to emergency personnel that the sounding of the alarm indicates the presence of flammable gas within the interior of the building.

~~(2) Wiring of alarm system.~~ All gas sensors shall be permanently wired to the alarm system and hard wired to the electrical distribution system. A battery backup system shall be installed.

~~(3) Placement of sensors. Gas sensors shall be located at minimum in two (2) locations: one at a point not to exceed eighteen (18) inches above the finished floor, and one at a point not less six (6) inches nor greater than twelve (12) inches from the ceiling. Gas sensor spacing shall be in accordance with nationally recognized testing organizations. Where unusual factors exist, such as room configuration, air movement or stagnant air pockets, the chief mechanical inspector shall determine the placement of sensors.~~

~~(4) Alarm system equipment. Every gas alarm system and its equipment shall be a standard approved type suitable for the purpose for which installed. The installation of every gas alarm shall be under the supervision of a qualified person who shall cause proper tests to be made at specified intervals except as otherwise set forth. Each system shall be tested at not less than weekly intervals, except as otherwise set forth. Gas alarm signaling equipment shall be restored to service as promptly as possible after each test or alarm, and shall be kept in normal conditions for operation. Equipment requiring rewinding or replenishment shall be rewound or replenished as promptly as possible after each test or alarm. The arrangement of sending stations and the manner of connection to sounding devices shall be such that there will be no difference between the sounding of actual alarms and drill systems. A required sounding device shall be used for gas alarm purposes only. Gas alarm sounding devices shall be provided of such character and so distributed as to be effectively heard in every room above all other sounds. Visual gas alarm devices may be used in lieu of audible devices where specifically permitted for institutional occupancies. Every gas alarm sounding device shall be distinctive in pitch and quality from all other sounding devices. A code signal indication where the alarm originates shall not be used except to such extent as herein set forth or as specifically authorized by the building official. Each system shall be so arranged that no manual intervention will be required following the activation of a sending station, for causing effective response of all required sounding devices. No facilities shall be provided whereby such response can be controlled or modified except those otherwise specifically set forth herein.~~

~~(e) Detector in Pits and Lower Than Floor Areas. Where pits or lower than floor areas exist, a gas detector shall be located in such area and shall be wired to the central alarm system. There shall be no minimum area exempt from the provisions of this section.~~

~~(Ord. NO. 86-22, Sec 1-5, 6-4-86)~~

~~Editors Note Ordinance No. 86-22, adopted June 4, 1986, amended Ch.5 adding provisions designated as a new Sec 5-9. Inasmuch as both Sections 1 and 2 of Ord. No. 86-22 set out provisions designated as paragraphs (a) to Sec 5-9 and Sections 3-5 set out provisions designated as paragraphs (b) — (d), this editor, in his discretion, and in order to avoid confusion, has redesigned the provisions of Sections 2 — 5 as paragraphs (b) — (e) to sections 5-9.~~

~~**Secs. 5-10-5.25. Reserved.**~~

~~**ARTICLE II. RESERVED**~~

~~Secs. 5-26—5-45. Reserved.~~

~~ARTICLE III. RESERVED*~~

~~Secs. 546—5.65. Reserved.~~

~~*Editor's Note Section 1 of Ord. No. 99-35, adopted Oct. 20, 1999, repealed Art. III, Public Service Fee, of Ch. 5, substantive provisions of which consisted of Sec. 5-46—5.50, which derived from Sec 4-2.6 of the 1964 Code and Ord. No. 84-8, Sec 1, adopted March 21, 1984.~~

ARTICLE IV. UNSAFE BUILDINGS

Sec. 5-66. Unsafe Buildings as defined by the Florida Building Code Section 117.00

1. General:

~~All buildings or structures which have any or al of the following defects shall be deemed dangerous buildings:~~

~~(1) Those whose interior walls or other vertical structural members list, lean o buckle to such an extent that a plumb line passing through the center of gravity falls outside the middle third of its base;~~

~~(2) Those which, exclusive of the foundation, show thirty three (33) percent or more, of damage or deterioration of the supporting member or members, or fifty (50) percent of damage or deterioration of the no supporting enclosing or outside walls or covering;~~

~~(3) Those which have improperly distributed loads upon the floors or roofs or in which the same are overloaded, or which have insufficient strength to be reasonably safe for the purpose used;~~

~~(4) Those which have been damaged by fire, wind or other causes so as to have become dangerous to life, safety, morals, or to the general health and welfare of the occupants or of the people of the town;~~

~~(5) Those which have become or are so dilapidated, decayed, unsafe, unsanitary, or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation, or are likely to cause sickness or disease, so as to work injury to the health, morals, safety or general welfare of those living therein;~~

~~(6) Those having light, air and sanitation facilities which are inadequate to protect the health, morals, safety, or general welfare of human beings who live, or may live therein;~~

~~(7) Those having inadequate facilities for egress in case of fire or panic, those having insufficient stairways, elevators, fire escapes or other means of communication;~~

~~(8) Those which have parts thereof which are so attached that they may fall and injure members of the public or property;~~

~~(9) Those which because of their condition are unsafe, unsanitary, or dangerous to the health, morals, safety or general welfare of the people of the town;~~

~~(10) Those buildings existing in violation of any provision of the South Florida Building Code, or of other ordinances of the town.
(Code 1964, Sec 4-3)~~

~~Cross reference definitions and rules of construction generally, Sec 1-2.~~

~~Sec. 5-67. Standards for repair, vacation or demolition.~~

~~The following standards shall be followed in substance by the building official in ordering repair, vacation, or demolition;~~

~~(1) If the dangerous building can reasonably be repaired so that it will no longer exist in violation of the terms of this chapter, it shall be ordered repaired.~~

~~(2) If the dangerous building is in such condition as to make it dangerous to the health, morals, safety, or general welfare of its occupants, it shall be ordered vacated.~~

~~(3) In any case where a dangerous building is fifty (50) percent damaged or decayed, as determined by the building official using the valuation criteria set forth in the South Florida Building Code or deteriorated from its original value or structure, it shall be demolished, and in all cases where a building cannot be repaired so that it will no longer exist in violation of the terms of this chapter it shall be demolished.~~

~~(4) In all cases where a dangerous building is a fire hazard existing or erected in violation of the terms of this chapter or any ordinance of the town or statute of the state, it shall be demolished.~~

~~(Code 196, Sec 4-4 (a) — (d)~~

~~Cross reference — health and sanitation, Ch. 10~~

~~Sec. 5-68. Nuisances.~~

~~All dangerous building within the terms of section 45-66 are hereby declared to be public nuisances, and shall be repaired, vacated or demolished as hereinbefore and hereinafter provided.~~

~~(Code 1964, Sec 44 (e)~~

Sec. 5-69. Duties of building official

The building official shall:

(1) ~~Inspect or cause to be inspected annually, all public buildings, schools, halls, churches, theaters, hotels, tenements, commercial, manufacturing, or loft building, and all apartments or hotels, for the purpose of determining whether any conditions exist which render such places a “dangerous building” within the terms of section 5-66.~~

(2) ~~Inspect any building, wall or structure about which complaints are filed by any person to the effect that a building, wall or structure is or may be existing in violation of this chapter.~~

(3) ~~Inspect any building, wall or structure reported by the police department as probably existing in violations of the terms of this chapter;~~

(4) ~~Notify the development services department director of any building found by him to be a “dangerous building” within the standards set forth in section 5-66;~~

(5) ~~Report to the development services department director any noncompliance with the “notice” provided for in section 5-70~~

(6) ~~Placing notice on all buildings found by him to b dangerous buidings reading as follows:~~

~~“This building has been found to be a dangerous building by the building inspector. This notice is to remain on this building until it is repaired, vacated, or demolished in accordance with the notice which has been given the owner, occupant, lessee, mortgagee, or agent of this building, and all other persons having an interest in said building as shown by the records of the clerk of the circuit court in and for Broward County, Florida. It is unlawful to remove this notice until such notice is complied.”~~

~~(Code 1964, Sec 4-5)~~

~~Sec. 5-70. Notice to owner or occupant.~~

(a) ~~The owner must vacate, repair or demolish the building in accordance with the terms of the notice and this chapter.~~

(b) ~~Building and zoning code enforcement officials have the authority to issue a notice to appear in county court to any property owner or other person responsible for violating any provision of applicable building or zoning ordinances. Such notice shall be issued only after a reasonable time period has been granted to allow for voluntary compliance depending upon the nature of the violation, but in no case, less than three (3) days from the date of the initial notice of violation to the property owner or responsible person. Enforcement officers designated pursuant to this subsection shall not be police officers and shall not make physical arrests or take any person into custody.~~

~~Code 1964, Sec 4-6)~~

~~Sec. 5-71. Appeal of notice to the unsafe structures board.~~

~~The owner, occupant, mortgagee, lessee, agent and all other persons having an interest in the building may appeal the requirements of the notice to the unsafe structures board by appearing at the meeting of the unsafe structures board next following the date of receipt of the notice. If an appeal has been filed in writing, the effect of the notice shall be stayed pending the meeting of the unsafe structures board next succeeding receipt of the notice by appellant. The stay shall be in effect until the unsafe structures board has acted to sustain, modify, or revoke the notice. If the notice is sustained, the period for complying with the notice shall commence from the action of the unsafe structures board in so sustaining. If the notice is modified, the unsafe structures board shall set a reasonable time not exceeding thirty (30) days to have the work or act required by the modification done.~~

~~(Code 1964, sec 4-7; Ord. No. 83-67, Sec 1, 7-20-83)~~

~~Cross reference — Boards and commissions, Sec 2-81 et seq.~~

~~Sec. 5-72. Penalty for failure to comply with notice.~~

~~(a) The owner and/or occupant of any “dangerous building” who shall fail to comply with any notice or order to repair, vacate, or demolish the building given by the clerk pursuant to section 5-70, unless an appeal has been effected in accordance with section 5-71, and if said appeal has been effected, then any such person who fails to comply with the notice as sustained or modified by the unsafe structures board, in accordance with said section 5-71, shall be guilty of a violation of this chapter and shall, upon conviction, be punished as provided by section 1-9.~~

~~(b) Any person removing the notice provided for in section 5-69(6) shall be guilty of a violation of this chapter and upon conviction shall be punished by a fine not exceeding two hundred dollars (\$200.00) or imprisonment for a term not exceeding thirty (30) days, or by both such fine and imprisonment.~~

~~(Code 1964, Sec 4-8; Ord. No. 83-67, Sec 1, 7-20-83).~~

~~Sec. 5-73. Lien on property; foreclosure.~~

~~In addition to the penalties provided by section 5-71, if the parties notified pursuant to section 5-70 fail to comply with the notice within the time specified or within the time set pursuant to section 5-71, if so modified, the town may proceed to cause such dangerous building to be repaired, vacated or demolished as the facts may warrant under the standards provided for in sections 5-67 and 5-68. The costs of such repair, vacation or demolition, together with all costs and expenses of collection including a reasonable attorney's fee shall constitute a lien on such property. The Town Clerk shall record notice of the lien among the public records of Broward County, Florida. The town may proceed to collect said lien by foreclosure or otherwise. Sale pursuant to a decree of foreclosure may be made by the clerk of the court which enters the decree in the same manner as prescribed for mortgage foreclosures in Florida Statutes.~~

~~(Code 1964, Sec 4-9)~~

~~Sec. 5-74. Further remedies available to town.~~

~~In addition to the procedures provided by sections 5-72 and 5-73, if the parties notified pursuant to section 5-70 fail to comply with the notice within the time specified or within the time set pursuant to section 5-71, if so modified, the town council may direct the town attorney to take appropriate legal action to force the owner and/or occupant to make all necessary repairs or to demolish the building. If the town shall prevail in any action pursuant hereto, it shall be entitled to recover a reasonable attorney's fee which shall be taxed as part of its costs.~~

~~(Code 1964, Sec 4-10)~~

(a) Buildings or structures that are, or hereafter shall become unsafe, unsanitary or deficient in adequate facilities for means of egress, or which constitute a fire or windstorm hazard, or illegal or improper use, occupancy or maintenance, or which do not comply with the provisions of the applicable Minimum Housing Code, or which have been substantially damaged by the elements, acts of God, fire, explosion or otherwise, shall be deemed unsafe buildings and a permit shall be obtained to demolish the structure or bring the building to comply with the applicable Codes.

(b) Incomplete buildings or structures commenced without a permit or the permit for which has expired, or completed buildings or structures commenced without a permit or the permit for which expired prior to completion and o Certificate of Occupancy has been issued, shall be presumed and deemed unsafe.

(c) Unsafe buildings or structures shall be demolished and removed from the premises concerned, or made safe, sanitary and secure in a manner required by the Building Official and as provided in this Chapter, provided that where replacement, repair, alteration or demolition is required on buildings or structures within the purview of the applicable Minimum Housing Code, the provisions of such Code shall be complies with and shall control.

(d) A permit shall be issued for the demolition of any unsafe building or structure in accordance with Section 104.2 F.B.C. 2001 as amended.

2. Criteria/Physical Criteria:

(a) A building shall be deemed a fire hazard and/or unsafe when:

(1) It is vacant, unguarded and open at doors or windows.

(2) There is an unwarranted accumulation of dust, debris or other combustible material therein.

- (3) The building condition creates hazards with respect to means of egress and fire protection as provided herein for the particular occupancy.
 - (4) A building shall be deemed unsafe when: There is a failure, hanging loose or loosening of any siding, block, brick, or other building material.
 - (5) There is a deterioration of the structure or structural parts.
 - (6) The building is partially destroyed.
 - (7) There is an unusual sagging or leaning out of plumb of the building or any parts of the building and such effect is caused by deterioration or over-stressing.
 - (8) The electrical or mechanical installations or systems create a hazardous condition in violation of the Standards of this Code.
 - (9) An unsanitary condition exists by reason of inadequate or malfunctioning sanitary facilities or waste disposal systems.
 - (10) Swimming pools that contain stagnant water are deemed unsanitary and dangerous to human life and public welfare and shall be presumed and deemed unsafe.
 - (11) By reason of use or Occupancy the area, height, type of construction, fire-receptivity, means of egress, electrical equipment, plumbing, air conditioning or other features regulated by this Code do not comply with this Code for the use and Group of Occupancy.
- (b) A building, or part thereof, shall be presumed to be unsafe if:
- (1) The construction, installation of electrical, plumbing or other equipment therein or thereon, or the partial construction or installation of equipment has been commenced or completed without a permit therefore having been obtained or the permit therefore expired prior to completion and a Certificate of Occupancy issued.
 - (2) By reason of illegal or improper use, occupancy, or maintenance does not comply with this Code or the Code in effect at the time of construction or the applicable Minimum Housing Code.

Sec 5-67. Valuation Criteria:

- (a) If the cost of completion, alteration, repair and/or replacement of an unsafe building or structure or part thereof exceeds 50% of its value, such building shall be demolished and removed from the premises. If the cost of completion, alteration, repair and/or replacement of an unsafe building or structure or part thereof does not exceed 50% of

such replacement cost, such building or structure may be repaired and made safe, as provided in Section 3401.8 and in the applicable Minimum Housing Code; or

(b) If the cost of structural repair or structural replacement of an unsafe building or structure or part thereof exceeds 33% of the structural value such building or structure or part thereof shall be demolished and removed from the premises; and if the cost of such structural repairs does not exceed 33% of such replacement cost, such building or structure or part thereof may be structurally repaired and made safe, as provided in F.B.C. Section 3401.8

(c) In order to determine the value of a building or structure and the cost of alterations, repairs and replacement, the guides and standards provided in F.B.C. Section 3401.8 shall apply.

(d) An exception to the above percentages may be recognized provided:

- (1) The owner of property has the ways and means to complete the work.
- (2) All imminent danger has been removed from the site.
- (3) All applicable Zoning regulations are met.
- (4) All applicable requirements of other departments and agencies are met.
- (5) Criteria noted in F.B.C. Sub-section 3401.8 are followed.
- (6) Any remaining portion of the structure to be used in rebuilding is certified as safe by an engineer or architect.

Sec. 5-69. Emergency Action:

(a) When in the opinion of the Building Official or his designee, there is actual or immediate danger of the failure or the collapse of a building or structure, or there is a health, windstorm or fire hazard, he may order the occupants to vacate, temporarily close for use or occupancy the rights of way thereto, sidewalks, streets or adjacent buildings, or nearby area and institute such other temporary safeguards, including securing posting and demolition of the building or structure, as he/she may deem necessary under the circumstances, and may employ the necessary labor and materials to perform the required work as expeditiously as possible.

(b) Costs incurred in the performance of such emergency work shall be paid by the appropriate governmental authority and upon the recording in the public records of this county a certificate executed by the Building Official, certifying the amount so expended and why expended, the same shall become a lien against the property involved.

(c) Notice Of Violation: The Building Official shall, at least 14 days prior to posting an unsafe building, give the owner of record of the premises concerned written notice by certified or registered mail, addressed to such person's last known address. If proof of service by registered or certified mail is not completed by signed return receipt, then a copy of the written notice shall be affixed to the structure concerned and such procedure shall be deemed proper service, and the time for compliance, stipulated in the notice, shall be deemed to commence with the date such notice is so affixed. This written notice shall state the defects which constitute a violation of the Section and shall prescribe the action to be taken to comply and the time within which compliance must be accomplished, such time to be 15 days, subject to reasonable extension when requested in writing, for reasons which the Building Official considers justifying an extension of time. All such extensions of time shall be by written approval of the Building Official. In addition, this written notice will explain the right of appeal of the decision of the Building Official to the Unsafe Structures and Housing Appeals Board, and also advise that unless there is compliance with the instructions in the Notice of Violation or an appeal is filed that a public hearing before the Unsafe Structures and Housing Appeals Board will be initiated by the Building Official after time for compliance has expired.

Sec. 5-70. Recording Of Notice of Violation:

(a) If the owner of the property concerned has not complied with the requirements as stated in the Notice of Violation within the time stipulated or has not appealed the action of the Building Official as stated in the Notice of Violation within the time specified, the Building Official may file an appropriate instrument in the office of the Clerk of the Circuit Court, to be recorded in the public records of this county, indicating that violations of this Code, and of the F.B.C. Section 111 thereof exist upon the property involved.

(b) The recording of such notice shall constitute constructive notice to all concerned, as well as to any subsequent purchasers, transferees, grantees, mortgages, lessees and all persons claiming or acquiring interest in said property.

(c) When the violation specified in the Notice of Violation has been corrected, the Building Official shall file for record a certificate certifying that the violation has been corrected, upon being paid for the filing fees incurred.

Sec. 5-71. Appeal and Review:

The owner or anyone having an interest in a building or structure which has been determined to be unsafe, and concerning which Notice of Violation has been served by the Building Official, may appeal the decision of the Building Official as stated in the Notice of Violation, to the Unsafe Structures and Housing Appeals Board, if such appeal is filed prior to the expiration of the time allowed for compliance specified in such notice; provided, in no event shall appeal period be less than fifteen (15) days. Such appeal shall be in writing, addressed to the Secretary of the Unsafe Structures and Housing Appeals Board, and shall be in the form of a certified statement, stating the reasons for such an appeal and stating wherein they consider the Building Official to be in error. Upon

receipt of the appeal, the Secretary of the Board will proceed to notify all parties in interest as to the time and place the Unsafe Structures and Housing Appeals Board shall conduct a public hearing on the matter. The procedure for the serving of, and the form of notice is provided hereinafter.

Sec 5-72. Notice of Public Hearing:

If the owner, or other parties having an interest do not comply with the terms of the Notice of Violation and do not file an appeal within the time stipulated, the Building Official shall then apply for a public hearing to be conducted by the Unsafe Structures and Housing Appeals Board, and the Secretary of the Unsafe Structures and Housing Appeals Board shall notify all parties in interest of the time and place of such public (a) (a) hearing on the matter. The procedure for the servings and the form of notice shall be the same as in the case where an appeal has been field by the owner or other parties in interest and such procedure and form of notice shall be as set forth hereinafter.

(b) When an appeal has been properly filed, or when the public hearing is initiated by the Building Official, as provided herein, the Secretary of the Unsafe Structures and Housing Appeals Board shall issue a notice in the Board's name, requiring the owner of record and all parties having an interest to appear before the Board in person or by an attorney at the time set forth in such notice, but not earlier than ten days after service thereof, and show cause why the decision of the Building Official should not be carried out.

(c) As many alias and pluries notices may be issued as may be necessary.

(d) Service of such notices shall be certified or registered mail to the last known address of the party being served, if known; however, failure to receive such notice shall not invalidate the same as such notice shall also be perfected by posting such notice on the property and by publishing a copy thereof in a newspaper published in this county, such publication to be for two times one week apart.

(e) The time for appearing and showing cause as aforesaid, and a description of the property shall be as set forth in such published notice; provided, such time shall not be less than ten days after the last publication thereof.

(f) Any person or party who shall not appear and show cause as aforesaid shall be as fully found by proceedings taken as if he had appeared and shown cause.

Sec. 5-73. Public Hearing:

(a) On the day established in the notice of public hearing the Board shall review all pertinent evidence ad hear all testimony from the Building Official, the owner and other parties in interest and their respective witnesses.

(b) The Board may modify, rescind, or uphold the decision of the Building Official as recited in the Notice of Violation and may order the owner or persons responsible for the building or structure to vacate, or cause to be vacated forthwith, to make repairs and to

take necessary action to secure the building, or to demolish the building or structure and remove the salvage, contents debris and abandoned property from the premises, all within the time stipulated in the order by the Board.

(c) Such order shall be entered in the minute book of the Board within three (3) days after such public hearing and a copy of such order shall be forwarded to the owner and all parties in interest by registered or certified mail and a copy thereof posted on the premises.

(d) If the owner or those responsible shall fail to comply with the order of the Board within the time stipulated therein, and such order is to repair, or secure the building to make safe, then the Building Official shall cause such building to be vacated, if occupied, and shall through his employees or through contractor making the lowest responsible bid, secure the building or structure.

(e) If the order is to demolish the building or structure and to remove the salvage, contents, debris and abandoned property from the premises, and the owner of those responsible shall have failed to comply with such order, then the Building Official may do so thereafter through his employees or through a contractor making the lowest responsible bid.

(f) The Building Official may sell to the highest bidder or bidders for cash the salvage and the contents of such building or other structure so demolished which have not been removed by the owner of the land.

(g) If no bids are received for such salvage or contents the Building Official may destroy that for which no bids are received.

(h) Advertisement calling for bids shall be published by the Building Official one time in a newspaper published in the County.

Sec. 5-74. Recovery of Cost:

(a) The entire costs incurred shall be paid by the owner of occupant of the premises or by the person who caused or maintained the violation.

(b) The Building Official shall file among his records an affidavit stating with fairness and accuracy the items of expense and the date of execution of actions.

(c) The enforcing agency may institute a suite to recover such expenses against any liable person or may cause expenses to be charged again the property as a lien or as a special assessment collectable according to established procedures.

(d) Except with respect to a lien imposed for expenses incurred in demolition, nothing herein shall be construed as placing a lien upon property which supersedes the lien of any

mortgage on such property executed and recorded prior to the existence of a lien authorized herein.

(e) Any lien imposed for demolition shall be a lien prior in dignity to all liens, excepting county tax liens and liens of equal dignity with county tax liens.

(f) Any person aggrieved by a decision of the Unsafe Structures Board may seek judicial review of that decision on accordance with the Florida Appellate Rules.

Secs. 5-75 – 5-90. Reserved.

~~ARTICLE V. UNSAFE STRUCTURES BOARD*~~

ARTICLE III. UNSAFE STRUCTURES BOARD*

Sec. 5-91. Created; composition; appointment of members.

An unsafe structures board is hereby created, consisting of nine (9) members who shall be appointed by the council, and serve at the discretion of the council.
(Code 1964, Sec. 4-11)

Sec. 5-92. Qualification of members.

Members of the board shall be either permanent residents or have their principal place of business within the area under the jurisdiction of the appointing authority, which possess outstanding reputations for civic activity, interest, integrity, responsibility, and business or professional ability. The composition and representative membership of the board shall be a registered engineer, a registered architect, a general building contractor, an electrical contractor, an attorney at law, a plumbing contractor, a real estate appraiser, a real estate property manager, and citizen with experience and background in the field of social problems.

(Code 1964, Sec. 4-12; Ord. No. 91-31, Sec 1, 8-7-91)

***Cross reference-**Boards and commissions, Sec. 2-81 et seq.

Sec. 5-93. Terms of office.

In order that the terms of office of all members of the board shall not expire at the same time, the initial appointments to the board shall be as follows: Three (3) members for the term of two (2) years; three (3) members for the term of three (3) years; and three (3) members for the term of four (4) years. Thereafter, all appointments shall be for the term of three (3) years, provided, however, that the term in all instances, shall continue until a successor is appointed and qualified. Appointments to fill any vacancy on the board shall be for the remainder of the unexpired term, but failure to fill a vacancy shall not invalidate any action or decision of the board.

(Code 1964, Sec. 4-13)

Sec. 5-94. Organization of the board; procedures before board.

(a) The members of the board shall elect a chairman and a vice chairman and such other officers as may be deemed necessary or desirable, who shall serve at the will of the board. Election of officers shall be held at the first meeting after appointment and such officers shall hold office for one (1) year.

(b) Five (5) members of the board shall constitute a quorum necessary to hold a meeting or take any action.

(c) A majority vote of the board membership present and voting at a duly constituted meeting shall be sufficient to overrule, modify or affirm any action or decision of the building official or to take any other action within the scope of the powers and duties of the board.

(d) Members shall serve without compensation, but shall be entitled to reimbursement for necessary expenses incurred in the performance of their official duties, upon approval by the town council of said expenses.

(e) No member of the board shall sit as a voting member in any hearing on a matter in which he has a personal or financial interest.

(f) The building official, or his designee, shall be the secretary of the board but shall have no vote.

(g) The chairman or the secretary may call meetings of the board, and meetings may be called by written notice signed by three (3) members of the board.

(h) Minutes and records shall be kept of all meetings of the board and all meetings shall be public.

(i) All hearings shall be open to the public, and any person whose interest may be affected by the matter on appeal shall be given an opportunity to be heard in person, or through his attorney.

(j) Witnesses may be sworn and subpoenaed by the board in a like manner as they are subpoenaed by the court or courts in the county in which this code is adopted.

(k) The hearings shall be informal and need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the type of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs regardless of the existence of any common law or statutory rules which might make improper the admission of such evidence over objection in civil actions.

(l) Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions.

(m) The rules of privilege shall be effective to the same extent that they are now, or hereafter may be, recognized in civil actions; and irrelevant and unduly repetitious evidence shall be excluded.

(n) The board may establish rules and regulations for its own procedure.

(o) The building official shall provide a adequate and competent clerical and administrative personnel and such technical or scientific personnel as may be reasonably required by the board for the proper performance of its duties, subject to budget limitations and shall maintain a record of all proceedings in the office of the building official.

(p) The building official shall provide a regular meeting place for the board.
(Code 1964 Sec. 4-14; Ord. No. 84-13, Sec 1, 6-6-84)

Sec. 5-95. Duties and powers of the board.

The board shall have the following duties, functions, powers and responsibilities:

(1) Hear and determine appeals from actions and decision of the building official pursuant to the provisions hereof;

(2) Hear and review the application of the building official for review of his action where his decision as indicated in a notice of violation has not been complied with;

(3) Affirm, modify or reverse the decision of the building official upon appeal or an application for review;

(4) The board, through its secretary, shall transmit the record with all exhibits, instruments, papers, and transcripts of its proceedings to the appointing authority in the event that authority shall consider the matter pursuant to applicable law in that regard made and provided;

(5) Hear and determine appeals from actions and decisions of the enforcing agency pursuant to the provisions of the applicable minimum housing code.
(Code 1964, Sec. 4-15)

Sec. 5-96. Duties of legal counsel.

It shall be the duty of the attorney for the town when so requested, to appear at all hearings before the unsafe structures board and to represent and advise the board.
(Code 1964, Sec. 4-15.1)

Sec. 5-97. Conflict of Interest.

No official, board member or employee charged with the enforcement of this law shall have any financial interest, directly or indirectly, in any repairs, corrections, construction or demolition which may be required, nor shall any official, board member or employee give to anyone the location of any property or the names of owners thereof on which repairs, corrections or demolition have been ordered, except as otherwise directed hereinafter, until after the owners have been formally advised at which time such shall become a matter of public record.

(Code 1964, Sec. 4-15.2)

Sec. 5-98 – 5-115. Reserved.